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May 19, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby
Counter TW-A325
Washington, D.C. 20554

Re: CC Docket No. 96-115, Subscriber List Information

Dear Ms. Salas:

We write on behalf of INFONXX, Inc. ("INFONXX"), a competitive directory assistance ("DA") provider, in connection with the Commission's consideration of rules to implement Section 222(e) of the Communications Act of 1934 (the "Act"), as amended by the Telecommunications Act of 1996 (the "Telecom Act"). In prior filings in this proceeding, INFONXX has urged the Commission to adopt technology-neutral, pro-competitive, pro-consumer rules ensuring that competitive DA providers are granted access to subscriber listing information ("SLI") under the same terms and conditions granted to the major CLECs that are providing that service. Specifically, INFONXX has explained why the Commission should read Section 222(e) of the Act to require the disclosure of SLI to competitive DA providers that disseminate subscriber information orally rather than in writing or electronically. Section 222(e) requires local exchange carriers to "provide subscriber list information on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of *publishing directories in any format*." 47 U.S.C. § 222(e) (emphasis added). INFONXX has shown that both the plain meaning of the phrase "publish[] . . . in any format" and the congressional intent undergirding the Telecom Act support the conclusion that Section 222(e) encompasses all means of disseminating subscriber information, including orally in response to specific requests for information. We write now to highlight additional support for that conclusion.

It has come to our attention recently that incumbent local exchange carriers themselves have recognized that all providers of directory information – in either written, electronic, or oral form – offer competing services in essentially the same market and are entitled

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to SLI on nondiscriminatory terms. In a proceeding initiated by U S WEST, Inc. ("U S WEST") to obtain forbearance from Sections 271 and 272 of the Act for U S WEST's National Directory Assistance ("NDA") service, ILEC commenters argued that it was unnecessary for the Commission to apply the separate affiliate requirements of Section 272 to ILECs' NDA services in part because NDA services are subject to growing competition from a variety of sources of directory information. In its petition for forbearance,¹ U S WEST asserted that Section 272's separate affiliate requirement need not be enforced to ensure reasonable rates for U S WEST's NDA service because the service is subject to competition from major inter-exchange carriers and "from other sources as well":

Internet service providers offer directory information accessible from anywhere with no per usage charge; U S WEST's own directory publishing affiliate offers electronic white and yellow pages over the Internet; and providers of information services, payphone service, and cellular service all can assist their customer's in obtaining directory information.^[2]

Further Submission in Support of Petition for Declaratory Ruling of U S WEST, CC Docket No. 97-172, at 19-20 (Mar. 11, 1998). U S WEST then conceded the applicability of the Section 222(e) disclosure requirements to these competitive DA providers: "The 1996 Act helps to safeguard the viability of *these and other alternative directory information sources* by requiring all local exchange carriers to make subscriber lists available on a nondiscriminatory basis to 'any person upon request for the purpose of publishing directories in any format.'" *Id.* at 20 (quoting § 222(e)) (emphasis added). U S WEST also stated that it would "provide access to its own in-region directory assistance database to *any requesting party* on reasonable and nondiscriminatory terms." *Id.* at 23-24 (emphasis added).

Ameritech similarly asserted that written, electronic and oral DA services all serve as sources of competition to ILECs' NDA services. Ameritech also conceded that these competitive entities are entitled to subscriber information under Section 222(e): "U S WEST's service is subject to . . . significant competition from IXC's, Internet service providers, existing directory publications, and many other sources. The 1996 Act also provides additional safeguards against possible misconduct, by requiring U S WEST and other LECs to provide subscriber list information on a nondiscriminatory basis." Comments of Ameritech, CC Docket No. 97-172, at 6 (Apr. 9, 1998); see also Ex Parte Letter of SBC Telecommunications, Inc., CC Docket No. 97-172, at 7 (Mar. 20, 1998) ("SBC's BOCs provide access to directory assistance

¹ U S WEST initially styled its pleading a Further Submission in Support of an earlier Petition for Declaratory Relief, but later requested, and the Commission agreed, to treat the pleading as a petition for forbearance under Section 10. See Public Notice, CC Docket No. 97-172 (Mar. 19, 1998).

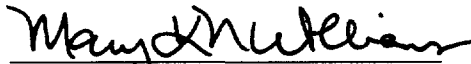
² INFONXX is just such a "carrier's carrier," providing DA services to a wide array of cellular carriers, including Airtouch and Bell Atlantic Mobile, as well as to competitive local exchange carriers such as Teleport.

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service and directory listing information on a nondiscriminatory basis to CLECs and other providers of directory assistance.”). These statements, from entities that have historically tried to avoid their Section 222(e) obligations to competitive DA providers, lend significant support to INFONXX’s contention that competitive DA providers clearly “publish” directories of subscriber information “in any format.”

Given the apparent consensus that competitive DA providers are entitled to subscriber listing information under Section 222(e), the Commission should promptly adopt rules reflecting that interpretation and assuring that competitive DA providers receive SLI on a nondiscriminatory basis, *i.e.*, on the same terms and conditions as it is provided to CLECs under Section 251.

Sincerely,



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Counsel to INFONXX

cc: Service List

May 19, 1999

CERTIFICATE OF SERVICE

I, Mary Newcomer Williams, do hereby certify that on this 19th day of May 1999, a copy of these comments was delivered by hand to the following persons:

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